

Appendix B: Laws and Regulations Pertaining to Oil and Gas Exploration, Development, Production, and Transportation

Alaska Statutes and Administrative Code Sections

ADNR

AS 38.05.027 Management of legislatively designated state game refuges and critical habitat areas is the co-responsibility of ADF&G (AS 16.20.050-060) and ADNR. Lessees are required to obtain permits from both ADNR and ADF&G.

AS 38.35.010-260 Right-of-way leasing for pipeline transportation of crude oil and natural gas is under the control of the commissioner of ADNR. The commissioner shall not delegate the authority to execute the leases.

AS 38.05.127 Provides for reservation of easements to ensure free access to navigable or public water.

11 AAC 53.330 Implementing regulations for the reserving of easements to ensure free access to navigable or public water.

11 AAC 83.158(a) A plan of operations must be approved by the commissioner, ADNR, if (1) state owns all or a part of the surface estate, (2) lease reserves a net profit share to the state, (3) state owns all or part of the mineral estate, but the surface estate is owned by a party other than the state, and the surface owner requests such a plan.

11 AAC 96.010 Operations requiring permits, including the use of explosives and explosive devices, except firearms.

11 AAC 96.140 Land use activities are subject to general stipulations that will minimize surface damage or disturbance of drainage systems, vegetation, or fish and wildlife resources.

ADNR/DO&G

AS 38.05.035(a)(9)(C) Requires geological and geophysical data to be kept confidential upon request of supplier.

AS 38.05.130 Allows the director, DO&G, to approve oil and gas exploration and development activities in the case where the surface estate is not held by the state or is otherwise subject to third party interests, provided the director determines that adequate compensation has been made to the surface estate holder for any damages which may be caused by lease activities.

AS 38.05.180 Establishes an oil and gas leasing program to provide for orderly exploration and development of petroleum resources belonging to the state of Alaska.

11 AAC 96.010-150 Geophysical Exploration Permit provides controls over activities on state lands in order to minimize adverse activities

ADNR/DL

AS 38.05.075 Establishes leasing procedures under public auction, including tide and submerged lands, bidding qualifications, and competitive or non-competitive bidding methods.

AS 38.05.850 Authorizes the director to issue permits, rights-of-way or easements on state land for recovery of minerals from adjacent land under valid lease.

11 AAC 80.005-055 Pipeline Right-of-way Leasing Regulations.

11 AAC 93.040-130 Requires a Water Rights Permit for the appropriation of state waters for beneficial uses.

11 AAC 96.010-140 Land use permit activities not permitted by a multiple land use permit or lease operations approval.

ADNR/ DMWM

11 AAC 93.210-220 Provides for temporary water use permits and procedures for application.

ADNR/DF

AS 41.17.082 Alaska Forest Resources Practices Act. Requires that all forest clearing operations and silvicultural systems be designed to reduce the likelihood of increased insect infestation and disease infections that threaten forest resources.

11 AAC 95.195 Describes the approved methods of disposal or treatment of downed spruce trees to minimize the spread of bark beetles and reduce the risk of wildfire.

11 AAC 95.220 Requires the lessee to file a detailed plan of operations with the state forester.

ADF&G

AS 16.05.840 A permit is required from ADF&G prior to obstruction of fish passage.

AS 16.05.870 Provides for the protection of anadromous fish and game in connection with construction or work in the beds of specified water bodies, and calls for approval of plans by the commissioner, ADF&G, for any diversion, obstruction, change, or pollution of these water bodies.

AS 16.20 Management of legislatively designated game refuges and critical habitat areas.

AS 16.20.060 The commissioner, ADF&G, may require submission of plans for the anticipated use, construction work, and proper protection of fish and game. Written approval must be obtained.

AS 16.20.180-210 Requires measures for the continued conservation, protection, restoration, and propagation of endangered fish and wildlife.

5 AAC 95.010-990 Fish and Game Habitat Authority.

5 AAC 95.420-430 Requires a Special Area Permit for certain activities within a special area, defined as a state game refuge, a state game sanctuary, or a state fish and game critical habitat area.

AOGCC

AS 31.05.005 Establishes and empowers the Alaska Oil and Gas Conservation Commission.

AS 31.05.030(d)(9)	Requires an oil and gas operator to file and obtain approval of a plan of development and operation.
AS 46.03.900(35)	Definition of waters.
AS 46.03.100	Accumulation, storage, transportation and disposal of solid or liquid waste standards and limitations.
20 AAC 25.005-570	Requires a permit to drill to help maintain regulatory control over the drilling and completion activities in the state.
20 AAC 25.140	Requires a Water Well Authorization to allow abandoned oil and gas wells to be converted to freshwater wells and to assure there is no contamination of the fresh water source.
ADEC	
AS 46.03	Provides for environmental conservation including water and air pollution control, radiation and hazardous waste protection.
AS 46.03.100	Requires solid waste disposal permits.
AS 46.03.759	Establishes the maximum liability for discharge of crude oil at \$500 million.
AS 46.03.900(35)	Definition of waters.
AS 46.04.010-900	Oil and Hazardous Substance Pollution Control Act. This act prohibits the discharge of oil or any other hazardous substances unless specifically authorized by permit; requires those responsible for spills to undertake cleanup operations; and holds violators liable for unlimited cleanup costs and damages as well as civil and criminal penalties.
AS 46.04.030	Requires lessees to provide oil discharge prevention and contingency plans (C-plans). Also, provides regulation of above-ground storage facilities with over 5,000 bbl of crude oil or 10,000 bbl of non-crude oil.
AS 46.04.050	Exemption for above-ground storage facilities for under 5,000 bbl of crude oil or 10,000 of non-crude oil.
18 AAC 15	Requires a Certificate of Reasonable Assurance (Water Quality Certification) in order to protect the waters of the state from becoming polluted. Assures that the issuance of a Federal Permit will not conflict with Alaska's Water Quality Standards.
18 AAC 50	Provides for air quality control including permit requirements, permit review criteria, and regulation compliance criteria.
18 AAC 50.300	Sets up standards for air quality at certain facilities including oil and gas facilities at the time of construction, operation, or modification.
18 AAC 60.220	Requires proof of financial responsibility before a permit for operation of a hazardous waste disposal facility may be issued.
18 AAC 60.220-240	Requires a Solid Waste Disposal Permit to control or eliminate detrimental health, environmental, and nuisance effects of improper solid waste disposal practices and to operate a solid waste disposal facility.

18 AAC 60.520	General requirement for containment structures used for disposal of drilling wastes.
18 AAC 72	Requires a Wastewater Disposal Permit in order to prevent water pollution (and public health problems) due to unsafe wastewater disposal systems and practices.
18 AAC 75	Provides for oil and hazardous substance pollution control including oil discharge contingency plan (18 AAC 75.305-.395).
18 AAC 75.005-025	Requirements for oil storage facilities for oil pollution prevention.
18 AAC 75.065-075	Requirements for oil storage tanks and surge tanks.
18 AAC 75.080	Facility piping requirements for oil terminal, crude oil transmission pipeline, exploration, and production facilities.
DGC	
AS 44.19.155	Establishes and empowers the Alaska Coastal Policy Council.
AS 46.40	Establishes the Alaska Coastal Management Program.
6 AAC 50	Requires the sale to be consistent with the ACMP, including approved district programs.
6 AAC 80.070(b)(3)	Requires that facilities be consolidated to the extent feasible and prudent.
6 AAC 80.070(b)(10)	Requires that facilities be sited to the extent feasible and prudent where development will necessitate minimal site clearing, dredging, and construction.
6 AAC 80.070(b)(11) and(12)	Requires that facilities be sited to the extent feasible and prudent to allow for the free passage and movement of fish and wildlife.
6 AAC 80.130(c)(3)	Requires that wetlands and tideflats be managed to assure adequate water flow, avoid adverse effects on natural drainage patterns, and the destruction of important habitat.
6 AAC 85	Establishes guidelines for district coastal management programs.
AS 26.23.195	Establishes the State Emergency Response Commission.
AS 39.50.20	Establishes Hazardous Substance Spill Technology Review Council within State Emergency Response Commission for research, testing spill technologies, and to serve as a clearinghouse for containment and cleanup technology.
AS 24.20.600	Citizens Oversight Council established a five-member council to serve as watchdog of state and federal agencies having responsibility for prevention of and response to oil spills, to help ensure compliance with environmental laws and regulations

Federal Laws and Regulations

Clean Water Act (CWA) - 33 U.S.C. §§ 1251-1387

§ 1343 - Corps permit required to excavate, fill, alter, or modify the course or condition of navigable or U. S. waters.

§ 1344 - Discharge of Dredge and Fill

Oil Spill and Hazardous Substances Pollution Contingency Plan - 40 C.F.R. § 300

EPA Regulations - 40 C.F.R.

§ 109 - Criteria for Oil Removal Contingency Plans

§ 110 - Discharge of Oil

§ 112 - Oil Pollution Prevention. 112.7 - Guidelines for implementation of SPCC plan

§ 113 - Liability Limits for Small Onshore Oil Storage Facilities

§ 114 - Civil Penalties for Violation of Oil Pollution Regulations

§ 116 - Designation of Hazardous Substances

§ 117 - Determination of Reportable Quantities for Hazardous Substances

Coast Guard Regulations - 33 C.F.R. §§ 153-157 Oil Spill Regulation

§ 153 - Reporting Oil Spills to Coast Guard

§§ 155-156 - Vessels in Oil Transfer Operations

Water Quality:

EPA Regulations - 40 C.F.R.

§ 121 - State Certification of Activities Requiring a Federal Permit

§ 136 - Test Procedures for Analysis of Pollutants

NPDES Permit System:

EPA Regulations - 40 C.F.R.

§ 122 - NPDES Permit Regulations

§ 125 - Criteria and Standards for NPDES Permits

§ 129 - Toxic Pollutant Effluent Standards

§ 401 - General Provisions for Effluent Guidelines and Standards

§ 435.10-435.12 - Offshore Oil & Gas Extraction Point Source Category

Ocean Dumping:

EPA Regulations - 40 C.F.R.

§§ 220-225, 227-228 - Ocean Dumping Regulations and Criteria

EPA Regulations - 40 C.F.R.

§ 230 - Discharge of Dredged or Fill Material into Navigable Waters

§ 231 - Disposal Site Determination

Army Corps of Engineers (Corps) Regulations - 33 C.F.R.

§ 209 - Navigable Waters

§§ 320-330 - Permit Program Regulations

§ 323 - Discharge of Dredge and Fill

The Fish and Wildlife Coordination Act - 16 U.S.C. §§ 661-666(c)

Allows comment on § 404 permit applications by USF&WS, NMFS, and EPA.

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. §§ 9601-9675

EPA Plans - 40 C.F.R.

§ 300 - National Oil and Hazardous Substances Pollution Contingency Plan

Safe Drinking Water Act - 42 U.S.C. § 300

EPA Regulations - 40 C.F.R.

§ 144 - Permit Regulations for the Underground Injection Control Program

§ 146 - Criteria and Standards for Underground Injection Control Program

§ 147 - State Underground Injection Control Program

Coastal Zone Management Act (CZMA) - 16 U.S.C. §§ 1451-1464

NOAA Regulations - 15 C.F.R.

§ 930 - Federal Consistency with Approved Coastal Management Programs

§ 931 - Coastal Energy Impact Program

Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act (RCRA) - 42 U.S.C. §§ 6901-6991

Clean Air Act (CAA) - 42 U.S.C. §§ 7401-7642

Toxic Substances Control Act - 15 U.S.C. §§ 2601-2655

National Ocean Pollution Planning Act - 33 U.S.C. §§ 1701-1709

National Environmental Policy Act (NEPA) - 42 U.S.C. §§ 4321-4347

Council on Environmental Quality (CEQ) Regulations - 40 C.F.R.

§§ 1500-1508 - Implementing NEPA Procedures

Endangered Species Act (ESA) - 16 U.S.C. §§ 1531-1543

USF&WS Regulations - 50 C.F.R.

§ 17 - Endangered & Threatened Species

§ 402 - Interagency Cooperation

Fish and Wildlife Coordination Act - 16 U.S.C. §§ 661-666(c)

Marine Protection, Research and Sanctuaries Act - 33 U.S.C. §§ 1401-1445

Marine Mammal Protection Act - 16 U.S.C. §§ 1361-1407

Migratory Bird Treaty Act - 16 U.S.C. §§ 703-711

National Historic Preservation Act - 16 U.S.C. § 470

Leases and Permits on Restricted Properties - 25 C.F.R. § 162